

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KIRK RISHOR,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C18-708 MJP

**ORDER ON MOTION TO EXPAND
RECORD**

Petitioner filed with the Court a motion he has fashioned as a “Motion to Expand the Record.” (Dkt. No. 2.) He requests the following:

Specifically, Kirk Rishor asks this court to procure the transcripts of January 30, 2007, sentencing in case No. 04-1-00218-7, also The R.A.P. Rule 9.5 Motion Case No 04-1-00218 and/or Wa. Appellate No. 59609-8-I and/or No 64050-0-1. And also, any and all filings filed in Superior Court under the above mention case No. and any and all Motions filed in the Washington Court of Appeal Division I under the above mentioned appellate numbers.

Id.

1 The Court notes, initially, that Petitioner provides no citations to statutory or case
2 authority entitling him to assemble the evidence in his case in this fashion. Rule 7 (“Expanding
3 the Record”) of the Rules Governing Section 2255 Proceedings for the United States District
4 Courts provides:

5 (a) **In General.** If the motion is not dismissed, the judge may direct the parties to expand the
6 record by submitting additional materials relating to the motion. The judge may require
7 that these materials be authenticated.

8 USCS Sec. 2255 Proc R 7. First, the Court observes that the implication is clear (“... the judge
9 may direct the parties to expand the record *by submitting additional materials...*”) that the
10 burden is on the party moving to expand the record (not the Court) to obtain and submit the
11 materials. There is no provision in the rule for the Court to assume responsibility for gathering
12 the evidence which the party desires to submit.

13 Second, it is not at all clear to the Court that the materials described by Petitioner fall
14 under the definition of “expanding the record.” The transcripts, motions and other pleadings
15 filed by Petitioner in the state courts are the record upon which he must establish his right to
16 2255 relief. As such, it is Petitioner’s responsibility to assemble his evidence and present it, not
17 the Court’s responsibility to obtain it for him.

18 The Court is mindful of the challenges that incarcerated litigants face in gathering
19 evidence and documentation in support of their pleadings. The Court would be willing to
20 entertain a motion to appoint counsel for Petitioner for the limited purpose of assisting him in
21 assembling the record in support of his current petition, if Petitioner chooses to make such a
22 request.

23 Petitioner’s motion to “expand the record,” however, is DENIED.
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1 The clerk is ordered to provide copies of this order to Petitioner and to all counsel.

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3 Dated June 20, 2018.

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Marsha J. Pechman

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The Honorable Marsha J. Pechman
United States Senior District Court Judge